IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

WP(C).No. 32109 of 2007(V)

PETITIONER:

M.J. SAMUEL,
PLAVINAL HOUSE, ULANADU P.O., KULANADA,
KOZHENCHERRY TALUK, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENTS:
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1. DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR WORKERS' WELFARE FUND BOARD,
PATHANAMTHITTA.

2. TAHSILDAR (RR), PATHANAMTHITTA.

3. VILLAGE OFFICER, KULANADA.

4. SONY MATHEW,
1/200, VATTAPPURAYIDATH HOUSE, MUNDAPPUZHA,
RANNI, PATHANAMTHITTA DISTRICT.

BY GOVERNMENT PLEADER SMT.M.K.PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) NO. 32109 OF 2007 V
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Dated this the 1st day of November, 2007

J U D G M E N T

Petitioner contends that he had transferred his stage carriage on 20/9/04 and that despite such transfer, revenue recovery proceedings has been initiated against him for the entire period of 2004-05 and an amount of Rs.57,244/- along with other charges is sought to be recovered. He also submits that he had no notice of any proceedings against him and that this is without even considering his Ext.P4 objection.

2. Learned standing counsel on instructions submits that for the year 2004-05, petitioner did not make any payment and that on 5/10/2005, a provisional determination order was passed, which was served on the petitioner on 15/10/2005. It is also submitted that subsequently,notices were issued to the petitioner on 12/12/2005 and 30/12/2005, but however, without any response. It is also submitted that thereafter registered notice was issued to the petitioner on 16/1/05 and the same was

returned unserved. Still later, on 25/1/2006, final determination order was passed and that too was sent to the petitioner, but was again returned unclaimed. In view of all these, revenue recovery steps were initiated and at that stage petitioner obtained a copy of the final determination order from the respondents and it is thereafter that this writ petition has been filed. It is submitted that though he had all the opportunities to resist the demand including one for appeal against the final determination order, petitioner did not avail of any such opportunities.

3. There is of course substance in the contention raised by the respondents. The respondents cannot be faulted for the action that they have taken.

4. However, having regard to the fact that according to the petitioner he has transferred the vehicle on 20/9/04, I feel a chance should be given to the petitioner to raise his objections atleast against the demand for the period thereafter. However, such opportunity cannot be given to the petitioner without any conditions imposed.

5. Taking into account the facts and circumstances of the

case, I dispose of this writ petition with the following directions.

1) That within one month from today, the petitioner shall deposit an amount of Rs.30,000/- with the first respondent.

2) Once such deposit has been made, the 1st respondent shall, irrespective of the final determination that has been done, shall consider Ext.P4 explanation submitted by the petitioner and take a decision thereon. If necessary, following the decision taken on Ext.P4, the final determination order already passed shall also be revised by the 1st respondent.

3) Subject to the above, further proceedings pursuant to Ext.P5 revenue recovery proceedings will stand deferred.

ANTONY DOMINIC,
JUDGE

Rp